



# Texas Board of Chiropractic Examiners

**Thursday, November 18, 2021**

BOARD MEETING: 9:01 A.M. – Final Adjournment at 11:37 A.M.

Texas Department of Motor Vehicle Headquarters  
4000 Jackson Avenue  
Austin, Texas 78731  
Lone Star Room

## BOARD MEETING MINUTES

The Texas Board of Chiropractic Examiners (Board) met on November 18, 2021, to consider and act as necessary on matters within the jurisdiction of the Board, which are listed on the agenda established for this meeting.

### 1. Call to Order and Roll Call:

**Action Taken:** Board President Dr. Mark Bronson called the meeting to order at 9:01 A.M. Board Secretary Dr. Scott Wofford called the roll.

#### Present Members:

Dr. Mark Bronson  
Dr. Michael Henry  
Dr. Scott Wofford  
Dr. Nicholas Baucum  
Dr. Debra White  
Dr. Mindy Neal  
Mr. Brandon Allen  
Mr. Joshua Hollub

#### Absent Members:

Ms. Sarah Abraham, Ph.D.

#### Board Staff Present:

Patrick Fortner, Executive Director  
Christopher Burnett, General Counsel  
Jennifer Hertsenberg, Director of Operations  
Sarah Matthews, Director of Licensing  
Norma Rodriguez, Director of Enforcement  
Joseph McLaughlin, Staff Attorney

**Action Taken:** WOFFORD MOVED and NEAL SECONDED to excuse Ms. Abraham's absence. The Board **APPROVED** the motion unanimously.



333 Guadalupe, Suite 3-825  
Austin, Texas 78701-3942



(512) 305-6700  
Fax (512) 305-6705



[www.tbce.state.tx.us](http://www.tbce.state.tx.us)  
[tbce@tbce.state.tx.us](mailto:tbce@tbce.state.tx.us)

Eight of the nine Board members were present and Dr. Bronson announced that a quorum was established.

**2. Discussion and approval of the minutes for the Board meeting held on August 19, 2021:**

**Action Taken:** BAUCUM MOVED and WOFFORD SECONDED to approve the minutes from the August 19, 2021 Board meeting. The Board **APPROVED** the motion unanimously.

**3. President's Report:**

Dr. Bronson began by presenting the 2021 Outstanding Board Award from the Federation of Chiropractic Licensing Boards (FCLB) to Mr. Fortner on behalf of the whole agency.

Dr. Bronson then discussed recent activities of the Board:

- Ms. Ebony Todd, J.D., resigned from the Board and was subsequently appointed to the Texas Medical Board.
- Dr. Bronson maintained his involvement with the National Board of Chiropractic Examiners (NBCE) and the FCLB as the Board's representative. He remained actively involved with the NBCE as a chief examiner for the Part 4 Examinations and as the Board's delegate to the NBCE. He also remained actively involved with the FCLB's PACE program to review and audit continuing education courses, and served on the FCLB's finance and audit committee. He recently agreed to serve on the FCLB's model practice act committee with former Board President Dr. Cynthia Tays.
- The FCLB hosted its district meetings on September 24-26, 2021. Topics discussed included addicted and mentally ill licensees, compliance monitoring, documentation requirements for maintenance and wellness care patients, the length of time disciplinary records are maintained, how far back in time criminal history reporting requirements extend, continuing education distance learning, engaging with licensees, public input, telehealth, chiropractic specialties, recovering legal costs, corporate ownership of chiropractic clinics, performance tracking, disciplining board members, rule language review, board meetings, mask mandates, codes of ethics, and international applicants.
- On November 12-14, 2021, Dr. Bronson served as chief examiner and Dr. White served as an examiner at the NBCE Part 4 Examinations at Parker University in Dallas, Texas.

Dr. Bronson then announced future events:

- Dr. Bronson is scheduled to serve as the chief examiner for the May, 2022, NBCE Part 4 Examinations at Parker University. He invited his fellow licensee Board members to participate as examiners.

#### **4. Board Committee Reports:**

##### **a. Rules Committee**

- Dr. Henry updated the Board on the results of the recent business model stakeholders' meeting. He found the discussion of the many different payment models to be extremely informative for the Board and staff.

##### **b. Enforcement Committee**

- Dr. Baucum reported that the EC met the day before to discuss 12 cases for directives to enforcement staff and to conduct 2 informal conferences with licensees.
- He welcomed the two new investigators, Christopher Walling and Chris Beach, to the staff and also welcomed former Interim Director Scott Parker back to the staff as a part-time investigator.
- He noted that Enforcement staff had seen an increase in stem cell related cases over the last year and that they would seek to coordinate a response with the Texas Attorney General's Consumer Protection Division.

##### **c. Education Standards Committee**

- Dr. White reported that thirteen continuing education (CE) courses were reviewed by the committee and all received full credit. Nine were online courses and four were live, reflecting the increase in online CE courses. The majority of the courses involved clinical neurology.

##### **d. Licensing Committee**

- No report was made as there is not currently a chair of this committee.

#### **5. Executive Director and Staff Reports:**

##### **a. Executive Director**

- Mr. Fortner began by noting the level of interest and involvement in the stakeholders' meeting and his belief that more will be conducted in the future to increase engagement with the licensee population. Mr. Fortner then formally introduced the new investigators and discussed their backgrounds. He thanked former Board member Dr. Larry Montgomery and his wife Priscilla for providing chiropractic and billing training to the Enforcement staff.
- Mr. Fortner reported that the database update is proceeding on schedule.

##### **b. Director of Operations**

- Ms. Hertsberg discussed the financial report for the first quarter of Fiscal Year (FY) 2022. She noted that the agency is on target with its revenues and expenditures.

##### **c. Director of Licensing**

- Ms. Matthews presented the licensing report comparing the fourth quarters of FY 2021 and FY 2020. She noted that the new Jurisprudence Examination is now live.

**d. Director of Enforcement**

- Ms. Rodriguez reported that 72 cases had been closed in the last reporting period with 115 cases currently pending, and that a case had been closed every 1.5 days on average during the reporting period.
- Dr. Baucum then discussed the Enforcement Division's consideration of the Ethics and Boundaries Assessment Services Examination (EBAS) and how a course to prepare licensees before taking the examination would be beneficial.

**6. Public Comment:**

There were no public comments.

**7. Discussion and action on adopting an informal settlement method for resolving minor administrative violations:**

Mr. Burnett explained the origin of this concept for the Board members. The principle impetus for the concept was to allow the Enforcement Division to increase the speed of case resolutions in cases involving minor rule violations. He then discussed the specifics of how the process would work.

**Action Taken:** HENRY MOVED and ALLEN SECONDED to approve the process. The Board **APPROVED** the motion unanimously.

**8. Discussion of recent trends relating to the unlicensed practice of chiropractic in Texas:**

Dr. Bronson introduced the subject and materials prepared by the staff and invited the Board members to discuss. He discussed the background of the subject of the staff's presentation and some of the philosophies behind it, while noting that it is not materially different in practice from chiropractic in any way.

Dr. Henry asked some questions about how the Board should regard these unlicensed individuals. Dr. Bronson invited Ms. Michele Quattlebaum and Dr. Larry Montgomery to address the Board and add comments to the discussion.

Mr. Hollub asked a question to Dr. Bronson about whether the subject is recognized as a licensed profession in any other states. Dr. Bronson replied that it is not.

**9. Discussion of the results of the October 20, 2021, stakeholders' meeting on whether there is a regulatory need for the Board to consider rulemaking regarding membership, concierge, or other similar business models:**

Mr. Burnett provided an overview of the discussion at the stakeholders' meeting. He started by explaining that the current Rule 75.5 needs to be reviewed and updated under the current statutory guidelines.

Dr. Henry then provided his thoughts on how the Board should proceed with any potential rulemaking on any business model rulemaking. He felt that a broader rule would be more appropriate rather than a rule addressing each individual business model.

Dr. Bronson then invited Dr. Scott Kelly of the Chiropractic Society of Texas (CST) to speak. Dr. Kelly simply reiterated that the CST's positions on the subject were stated in their comments provided for the stakeholders' meeting.

**Action Taken:** At 10:16 A.M., Dr. Bronson allowed for a short break.

**Action Taken:** At 10:31 A.M., Dr. Bronson reconvened the meeting

**10. Discussion and action on requests to sit for the Texas Jurisprudence Examination pursuant to Texas Occupations Code §201.304(a)(2):**

**a. Melissa Todd**

The staff recommendation was to allow the applicant to sit for the Texas Jurisprudence Examination after taking and passing the NBCE's Special Purposes Examination for Chiropractors (SPEC) at her expense.

**Action Taken:** ALLEN MOVED and WOFFORD SECONDED to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

**b. Todd Elsner**

The staff recommendation was to allow the applicant to sit for the Texas Jurisprudence Examination after taking and passing SPEC at his expense. Ms. Matthews noted that the applicant had actually notified her the night before that he wished to withdraw his application, but Dr. Henry noted that if the Board accepted her recommendation, the applicant could then move forward at any time in the next two years.

**Action Taken:** HENRY MOVED and WHITE SECONDED to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

**c. Victor Flores**

The staff recommendation was to allow the applicant to sit for the Texas Jurisprudence Examination with no stipulations.

**Action Taken:** HENRY MOVED and WOFFORD SECONDED to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

**11. Discussion and action on requests to sit for the Texas Jurisprudence Examination pursuant to Texas Occupations Code §201.304(a)(2), 201.502(a), 201.5025(a)(3), and 201.5026:**

**a. Alejandro Elias Vazquez**

The staff recommendation was to allow the applicant to sit for the Texas Jurisprudence Examination after removing all advertisements regarding his chiropractic practice.

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

**b. Emily Elias**

The staff recommendation was to allow the applicant to sit for the Texas Jurisprudence Examination after removing all advertisements regarding her chiropractic practice.

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

**12. Discussion and action on proposed agreed orders pursuant to Texas Occupations Code §201.504(a)(1):**

**a. James McCarty, License No. 4018, TBCE Case No. 2018-203**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** WOFFORD **MOVED** and BAUCUM **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**b. Brittany Yvonne Hill, License No. 13098, TBCE Case No. 2019-261**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** WOFFORD **MOVED** and BAUCUM **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**c. Jorge Luis Nieto, License No. 10219, TBCE Case No. 2019-264**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** ALLEN **MOVED** and HENRY **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**d. Krystal Jasmine Barnett, License No. 11446, TBCE Case No. 2020-046**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** NEAL **MOVED** and ALLEN **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**e. Raymond Scott Harris, License No. 4086, TBCE Case No. 2020-053**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** WHITE **MOVED** and WOFFORD **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**f. Ray Laurin Nannis, License No. 6733, TBCE Case No. 2020-107**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** WOFFORD **MOVED** and BAUCUN **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**g. Santiago Guajardo, License No. 8823, TBCE Case No. 2020-132**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** ALLEN **MOVED** and NEAL **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**h. Wesley Bryan Woods, License No. 6926, TBCE Case Nos. 2020-160 and 2020-174**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** BAUCUM **MOVED** and NEAL **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**i. Shannon R. Brown, License No. 10519, TBCE Case No. 2021-021**

The staff recommendation was that the Board approve the agreed order.

**Action Taken:** BAUCUM **MOVED** and HENRY **SECONDED** to approve the agreed order. The Board **APPROVED** the motion unanimously.

**13. Discussion and action on required suspension or revocation of licenses for certain offenses pursuant to Texas Occupations Code §201.5065:**

**a. Hoai-Huong Thi Truong, License No. 13286, TBCE Case No. 2022-008**

**Action Taken:** WOFFORD **MOVED** and BAUCUM **SECONDED** to approve the revocation of the license. The Board **APPROVED** the motion unanimously.

**14. Discussion and action on default orders pursuant to Texas Occupations Code §201.0555, Texas Government Code §§2001.056(4) and 2001.058(d-1), and 22 TAC §81.6(b):**

**a. Daniel Garcia, License No. 9939, TBCE Case No. 2019-106**

The staff recommendation was that the Board approve the default order.

**Action Taken:** ALLEN **MOVED** and BAUCUM **SECONDED** to approve the default order. The Board **APPROVED** the motion unanimously.

**b. Michael J. Maggio, License No. 8060, TBCE Case No. 2021-004**

The staff recommendation was that the Board approve the default order.

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to approve the default order. The Board **APPROVED** the motion unanimously.

**15. Discussion and final action on proposed final decision (PFD) orders pursuant to Texas Occupations Code and 22 TAC §81.10:**

**a. Daxton T. Krugman, License No. 8577, TBCE Case No. 2021-060**

The staff recommendation was that the Board approve the PFD order.

**Action Taken:** ALLEN **MOVED** and WHITE **SECONDED** to approve the PFD order. The Board **APPROVED** the motion unanimously.

**Action Taken:** At 11:05 A.M., Dr. Bronson allowed for a short break.

**Action Taken:** At 11:10 A.M., Dr. Bronson reconvened the meeting

**16. Discussion and action on adopting the repeal and replacement of 22 TAC §72.18 (Criminal History):**

Mr. Burnett introduced this item and the next item by explaining that these two actions taken in conjunction would hopefully increase awareness of and accessibility to the Board's rule regarding reporting of convictions and deferred adjudications.

The staff recommendation was for the Board to adopt the repeal and replacement as published in the Texas Register.

**Action Taken:** HENRY **MOVED** and NEAL **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §72.18 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

**17. Discussion and action on adopting proposed new Board rule 22 TAC §72.19 (Requirement to Report a Conviction or Deferred Adjudication):**

The staff recommendation was for the Board to adopt the proposed new rule as published in the Texas Register.

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to adopt the proposed new rule 22 Texas Administrative Code §72.19 as published in the Texas Register. The Board **APPROVED** the motion unanimously.



**18. Discussion and action on adopting the repeal and replacement of 22 TAC §77.1 (Advertising and Public Communication):**

Mr. Burnett explained that this item and the next item, taken in conjunction, would hopefully increase awareness of the Board's rule regarding use of the chiropractic identifiers. The staff recommendation was for the Board to adopt the repeal and replacement as published in the Texas Register.

**Action Taken:** BAUCUM **MOVED** and WHITE **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §77.1 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

**19. Discussion and action on adopting proposed new Board rule 22 TAC §77.3 (Proper Use of D.C. or Similar Terms and Restrictions):**

The staff recommendation was for the Board to adopt the proposed new rule as published in the Texas Register.

**Action Taken:** WHITE **MOVED** and WOFFORD **SECONDED** to adopt the proposed new rule 22 Texas Administrative Code §77.3 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

**20. Discussion and action on proposing the repeal and replacement of 22 TAC §75.5 (Prepaid Treatment Plans):**

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to table this agenda item until the next Board meeting. The Board **APPROVED** the motion unanimously.

**21. Discussion and action on proposing the repeal and replacement of 22 TAC §78.1 (Scope of Practice):**

Mr. Burnett explained the history of the rule's current status and involvement with the recently concluded litigation between the Board and the Texas Medical Association. He noted that the language from the current rule regarding Vestibular-Ocular-Nystagmus Testing and certain prohibitions on scope of practice would be moved to separate rules. The staff recommendation was for the Board to propose the repeal and replacement as discussed.

**Action Taken:** HENRY **MOVED** and WOFFORD **SECONDED** to propose the repeal and replacement of 22 Texas Administrative Code §78.1 as discussed. The Board **APPROVED** the motion unanimously.

**22. Discussion and action on proposing the repeal and replacement of 22 TAC §78.2 (Prohibitions on the Scope of Practice):**

Mr. Burnett explained that this particular action would involve moving the needle prohibition and manipulation under anesthesia prohibitions into one single rule. The staff recommendation was for the Board to propose the repeal and replacement as discussed.

**Action Taken:** BAUCUM MOVED and HENRY SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §78.2 as discussed. The Board **APPROVED** the motion unanimously.

**23. Discussion and action on proposing the repeal and replacement of 22 TAC §78.3 (General Delegation of Responsibility):**

Mr. Burnett explained that this action was primarily a clean-up of the current rule and also included an addition of the technical component of radiological procedures to the list of procedures licensees can generally delegate. The staff recommendation was for the Board to propose the repeal and replacement as discussed.

**Action Taken:** HENRY MOVED and WOFFORD SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §78.3 as discussed. The Board **APPROVED** the motion unanimously.

**24. Discussion and action on proposing a new Board rule, 22 TAC §78.6 (Required Diligence in the Practice of Chiropractic):**

Mr. Burnett explained that the current diligence rule is somewhat confusing because it includes language requiring chiropractors to do certain things and prohibiting others. This action would split that language into separate rules. The staff recommendation was for the Board to propose the new rule as discussed.

**Action Taken:** WHITE MOVED and BAUCUM SECONDED to propose the new rule 22 Texas Administrative Code §78.6 as discussed. The Board **APPROVED** the motion unanimously.

**25. Discussion and action on proposing a new Board rule, 22 TAC §78.9 (Vestibular-Ocular-Nystagmus Testing):**

Mr. Burnett explained that this language from the current scope of practice rule should be maintained due to it being the subject of litigation in which the Board prevailed, but for organizational purposes, should be moved to a separate rule. He noted that this procedure would not be delegable to non-licensees. Dr. Henry suggested a tweak to the title of the rule. The staff recommendation was for the Board to propose the new rule as discussed.

**Action Taken:** HENRY MOVED and BAUCUM SECONDED to propose the new rule 22 Texas Administrative Code §78.9 as discussed. The Board **APPROVED** the motion unanimously.

**26. Discussion and action on proposing the repeal and replacement of 22 TAC §79.2 (Lack of Diligence):**

Mr. Burnett explained that this was the corresponding action to Agenda Item 24. The staff recommendation was for the Board to propose the repeal and replacement as discussed.

**Action Taken:** HENRY MOVED and WOFFORD SECONDED to propose the repeal and replacement of 22 Texas Administrative Code §79.2 as discussed. The Board **APPROVED** the motion unanimously.

**27. Requests from Board members for future agenda items:**

Mr. Allen proposed discussion at the next meeting on the subject of requiring all new licensees to attend a Board meeting.

Dr. Bronson proposed discussion at the next meeting on the subject of assessing the Board's CE requirements.

**28. Adjournment:**

**Action Taken:** HOLLUB MOVED and ALLEN SECONDED to adjourn the meeting at 11:37 A.M. The Board **APPROVED** the motion unanimously.

**STATEMENT:** I affirm that the above is a true and correct rendering of the minutes for the Texas Board of Chiropractic Examiners Board Meeting held on the above date. The minutes from the Board Meeting held on August 19, 2021, were **APPROVED** by the Texas Board of Chiropractic Examiners at its regularly scheduled meeting held on November 18, 2021.



November 19, 2021

\_\_\_\_\_  
Patrick Fortner  
Executive Director  
Texas Board of Chiropractic Examiners

\_\_\_\_\_  
Date